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10/721,406

11/24/2003

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EXAMINER

HALPERN, MARK

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/721,406

Applicant(s)

KANGAS ET AL.

Examiner

Mark Halpern

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1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1) Acknowledgement is made of Amendment received 3/10/2006.

Claims 1-9 are cancelled and new claims 10-19 are offered for consideration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2) Claims 10, 17-19, are rejected under 35 U.S.C. 102(b) as being anticipated by Shortridge (DE 24 45 602)(translated copy provided). Shortridge discloses a spray device. In the device a conveyor belt 3 runs on rollers 2 and travels under a spray section. The spray section includes an endless cable 26, to which a number of carriages, each with a spray nozzle 28, is clamped, runs on

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pulleys 18 and 25 in a cross direction over the entire width of the belt. The spray nozzles are arranged at a distance from each other and are movable along a rail by means of an induction motor arrangement. Each spray nozzle 28 is supplied from a central supply point 33 via flexible line 34. The spray nozzles are driven along a rail with a speed adjusted to the speed of the conveyor belt. Flat objects to be sprayed, such as leather, are placed on the conveyor belt. The spraying occurs perpendicular to the motion of the conveyor (Shortridge, pgs. 3-6). It is inherent that since the device is used to spray flat objects such as leather, the device would be equally applicable to spray paper webs placed on the conveyor, without any structural modification to the device.

3) Claims 11-16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shortridge. It would have been obvious, to one skilled in the art at the time the invention was made, that the exit gap adjustment be performed by any means including by the claimed devices.

4) Claims 10, 17-19, are rejected under 35 U.S.C. 102(b) as being anticipated by Zapp (GB 835,670). Zapp discloses an apparatus for spraying flat sheets, such as leather, metal or the like (pg. 1, lines 52-56). The apparatus includes a revolving ring to which spray guns and guiding photoelectric cells are attached. The rotating ring revolves about the pivot 3 in the direction indicated by the arrow. The four spray guns 6, equally distanced from each other, spray the object placed on the moving conveyor belt 1, covering the spray area over the entire width of the belt (pg. 1, line 57 to pg. 3, line 94, and Figures 1-2). It is inherent that since the device is used to spray flat objects such as leather or

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metal, the device would be equally applicable to spray paper webs placed on the conveyor, without any structural modification to the device.

5) Claims 11-16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Zapp. It would have been obvious, to one skilled in the art at the time the invention was made, that the exit gap adjustment be performed by any means including by the claimed devices.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6) Claims 10-19, are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8, of U.S. Patent No. 6,866,207. Although the conflicting claims are not identical, they are not patentably distinct from each other because the present invention discloses a spray nozzle assembly for spraying chemicals in an apparatus.

Response to Amendment

- 7) Claims 1-9, rejection under 35 U.S.C. 112, second paragraph, is withdrawn.
- 8) Claims 1-9, objection is withdrawn.
- 9) Applicant's arguments with respect to claims 1-9, have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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11) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 571-272-1190. The examiner can normally be reached on Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'M. Halpern', with a stylized, flowing script.

Mark Halpern
Primary Examiner
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